

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALLIED WASTE SERVICES OF  
MASSACHUSETTS, LLC,

Defendant.

CIVIL ACTION NO.

**08 CA 11382** MBB

COMPLAINT

Plaintiff, the United States of America, through its undersigned attorneys, and at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), alleges as follows:

INTRODUCTION

1. This is a civil action brought against Allied Waste Services of Massachusetts, LLC ("Allied Waste") pursuant to Sections 113(a)(1) and 113(b) of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7413(a)(1) and 7413(b), seeking injunctive relief and civil penalties.

2. The claims arise from Allied Waste's failure to comply with the federally enforceable motor vehicle regulation found at 310 Code of Massachusetts Regulations ("CMR") 7.11(1)(b) ("the Massachusetts idling regulation"). The Massachusetts idling regulation prohibits the unnecessary operation of the engine of a motor vehicle while the vehicle is stopped for a foreseeable period of time in excess of five minutes.

3. This Court has jurisdiction over the subject matter of this action pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1331, 1345, and 1355.

4. Venue is proper in this district pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b); 28 U.S.C. § 1391; and 28 U.S.C. § 1395.

5. Notice of commencement of this action has been given to the Commonwealth of Massachusetts pursuant to Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1).

DEFENDANT

6. Allied Waste is a corporation registered with the Commonwealth of Massachusetts, and has its registered principal office at CT Corporation System, 155 Federal Street, Suite 700, Boston, Massachusetts 02110.

7. Allied Waste is a person within the meaning of Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and 310 CMR 7.00.

CLAIM FOR RELIEF: EXCESSIVE IDLING IN VIOLATION OF THE CAA

8. Sections 113(a)(1) and 113(b) of the CAA, 42 U.S.C. 7413(a)(1) and (b), provide for injunctive relief, and the assessment of civil penalties, for violations of any provision of an applicable state implementation plan or permit. The provisions of the Massachusetts idling regulation at 310 CMR 7.11(1)(b) are part of a federally enforceable state implementation plan approved by the EPA under Section 110 of the CAA, 42 U.S.C. § 7410.

9. The Massachusetts idling regulation at 310 CMR 7.11(1)(b) provides:

No person shall cause, suffer, allow, or permit the unnecessary operation of the engine of a motor vehicle while said vehicle is stopped for a foreseeable period of time in excess of five minutes. This regulation shall not apply to:

(1) vehicles being serviced, provided that the operation of the engine is essential to the proper repair thereof, or

(2) vehicles engaged in the delivery or acceptance of goods, wares, or merchandise for which engine assisted power is necessary and substitute alternate means cannot be made available, or

(3) vehicles engaged in an operation for which engine power is necessary for an associated power need other than movement and substitute alternate power means cannot be made available provided that such operation does not cause or contribute to a condition of air pollution.

10. Allied Waste operates 18 depots and owns approximately 638 waste-hauling vehicles in Massachusetts.

11. Allied Waste's waste-hauling vehicles fall within the term "motor vehicle" as defined under 310 CMR 7.00.

12. An inspector from EPA observed on various occasions between February and April of 2007, a total of sixty-three (63) of Allied Waste's waste-hauling vehicles at four (4) of Allied Waste's depots in Massachusetts, namely those in Fall River, Quincy, Brockton, and Revere, idling in excess of five minutes.

13. Allied Waste caused, suffered, allowed or permitted its motor vehicles to operate unnecessarily while those vehicles were stopped for a foreseeable period of time in excess of five minutes, and such operations did not fall under any of the enumerated exceptions in 310 CMR 7.11(1)(b).

14. Therefore, Allied Waste violated 310 CMR 7.11(1)(b), an applicable state implementation plan provision.

15. On April 16, 2007, EPA issued Allied Waste a Notice of Violation under the authority of Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1), concerning the violations alleged in this Complaint.

16. Pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, Allied Waste is liable for a civil penalty of up to \$32,500 per day for each violation that occurred after March 15, 2004.

RELIEF SOUGHT

Wherefore, Plaintiff, the United States of America, respectfully requests that the Court grant the following relief:

1. Permanently enjoin Allied Waste from operating its motor vehicle engines unnecessarily while those vehicles are stopped for a foreseeable period of time in excess of five minutes in violation of 310 CMR 7.11(1)(b);
2. Assess Allied Waste a civil penalty for each violation of the Clean Air Act; and
3. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

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